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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,559	12/19/2005	Jae-Hyuk Oh	60,469-241; OT-5178 LAB	9936
7590	10/30/2009	Theodore W Olds Carlson Gaskey & Olds Suite 350 400 W Maple Road Birmingham, MI 48009	EXAMINER KRUEER, STEFAN	
			ART UNIT 3654	PAPER NUMBER
			MAIL DATE 10/30/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JAE-HYUK OH, PEI-YUAN PENG,
HOWARD WINSTON and ALAN FINN

Application No. 10/561,559
Technology Center: 3600

Mailed: October 30, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 26, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

On October 26, 2009, a PTOL-901, in the form of a Supplemental Examiner's Answer was mailed in response to a Reply Brief filed on August 3, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed October 26, 2009, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

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 - 1) vacate the Communication mailed October 26, 2009;
 - 2) generate and mail either:
 - a) a revised Communication properly acknowledging to the Reply Brief dated August 3, 2009, in accordance with MPEP§ 1208, part II.;
 - or

- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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